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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,405	12/10/2003	Tadashi Mori	031320	3914

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EXAMINER

ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,405

Applicant(s)

MORI ET AL.

Examiner

Patricia L Engle

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on December 11, 2002. It is noted, however, that applicant has not filed a certified copy of the JP 2002-358852 application as required by 35 U.S.C. 119(b).

Drawings

2. Figures 18-21 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: the specification appears to be a translation that has not been reviewed. On pages 1-4, the specification refers to documents 1-4, these documents need to be properly introduced. On pages 8-11, the invention is summarized in relation to the claims, the references to the claims should be removed because the claims could change and then the specification may not correspond to the claims. Throughout the specification elements are used in the possessive form, but instead of the element being possessive the reference character is possessive, i.e., page 1, second paragraph, line 5, "this cab 83's" should be --this cab's 83 side--. Please review the entire specification for this.

Art Unit: 3612

Appropriate correction is required.

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The term "certain displacement" in claim 1 is a relative term which renders the claim indefinite. The term "certain displacement" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. What is a certain displacement? How would one of ordinary skill in the art know when a certain displacement was reached?

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Keechner et al. (US Patent 5,388,884).

Regarding claim 1, Keechner et al. disclose a cab supporting structure supporting a cab (20) against a vehicle frame (12) via an attenuation mechanism (36), wherein a regulation member (46), only when certain displacement is generated in the cab in the extension direction of the attenuation mechanism, regulating this displacement (46' and 46'') is provided separately from this attenuation mechanism (36).

Regarding claim 2, Keechner et al. disclose the cab supporting structure according to claim 1, wherein said regulation member (46) has a cab side member (30) attached to the cab side, and this cab side member (30) is in a non-interferential relation with said vehicle frame side (12) in a normal condition (solid lines in Fig. 2).

Regarding claim 3, Keechner et al. disclose the cab supporting structure according to claim 1 or claim 2, wherein said regulation member (46) regulates displacement of the cab before (46' and 46'') a stroke end of said attenuation mechanism (36).

Regarding claim 4, Keechner et al. disclose the cab supporting structure according to claim 1 or 2, wherein said regulation member (46) is arranged between a column (24) of the cab and the vehicle frame (12).

Regarding claim 6, Keechner et al. disclose the cab supporting structure according to claim 1 or 2, wherein, when rigidity of said cab is set to be larger at the rear side than at the front side, said regulation member is provided at least at the rear side of the cab (Fig. 1).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keehner et al. in view of Applicant's Admission (Figs. 17 and 20).

Keehner et al. disclose the cab supporting structure according to claim 1 or 2. Keehner et al. do not disclose that there is an operation machine. The Applicant's admit in Figs. 17 and 20 that a cab supporting structure with an operation machine and the attenuation device taught by Keehner et al. is known (Fig. 20). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the regulation member as taught by Kehner et al. in a cab structure with an operation machine as taught by the Applicant's admission in Fig. 20.

Art Unit: 3612

Conclusion


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses other regulation devices for cab structures.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777.

The examiner can normally be reached on Monday - Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patricia L Engle
Primary Examiner
Art Unit 3612

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November 17, 2004